

REMARKS

Reconsideration of this application is respectfully requested.

In the Official Action, the Examiner rejects claims 1-4, 6, 7, 9-11, and 13-16 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,006,227 to Freeman et al., (hereinafter "Freeman"). Additionally, the Examiner rejects claims 5, 8, 12, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Freeman in view of U.S. Patent No. 6,460,036 to Herz (hereinafter "Herz"). In response, Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. §§ 102(e) and 103(a) for at least the reasons set forth below.

In the Official Action, the Examiner engages in a rather fanciful interpretation of what is disclosed in the Freeman reference. Applicants respectfully disagree with the Examiner's interpretation of the Freeman reference.

With regard to claim 1, the Examiner argues that Freeman discloses, "classifying at least one of audio, video, and text input to a computer and generating an indicator of an event responsively thereto". Applicants respectfully disagree. Freeman merely discloses organizing documents into a stream of documents that are sorted by date. Freeman contains absolutely no disclosure or suggestion of "generating an indicator of an event responsively thereto".

With regard to claim 6, the Examiner argues that Freeman discloses, "prompting a user for greater detail in an event defined by said record." Applicants again respectfully disagree. Freeman merely discloses functions (e.g., Xfer, reformatting a catalog), which upon initiation by the user, reorganizes certain of the documents into a new stream or substream of documents. Freeman also contains no disclosure of "automatically generating a diary record responsive to a result of said steps of accepting and prompting". Applicants

respectfully submit that the cited portions of Freeman that allegedly disclose this feature are irrelevant to this feature. The cited portions merely disclose that the documents in the stream are time ordered and that the stream of documents can contain a record of checks written by the user. Thus, Freeman contains absolutely no disclosure or suggestion of "prompting a user for greater detail in an event defined by said record" and "automatically generating a diary record responsive to a result of said steps of accepting and prompting."

With regard to claim 10, the Examiner argues that Freeman discloses, "detecting one of a passage of time since an entry of a record into a diary database and a time of day." Applicants again respectfully disagree. Freeman merely discloses chronological indicators to indicate time, the chronological indicators do not detect "one of a passage of time since an entry of a record into a diary database and a time of day." Freeman also contains no disclosure of "prompting a user to enter a diary entry responsively to said step of detecting". Again, Freeman merely discloses functions (e.g., Xfer, Boolean search query), which upon initiation by the user, reorganizes certain of the documents into a new stream or substream of documents. Thus, Freeman contains absolutely no disclosure or suggestion of "prompting a user to enter a diary entry responsively to said step of detecting" and "accepting data to form a new record in a diary."

With regard to claim 14, the Examiner argues that Freeman discloses, "adding data resulting from said step of extracting to data resulting from said step of accepting to said diary database". Freeman merely discloses adding a new document into the stream at the current point in time. The Examiner picks and chooses among the embodiments of Freeman and combines them as if they are disclosed as a single embodiment. Applicants respectfully submit that such a practice is improper. The Examiner argues that "extracting current events

or historical data from an external data resource" and "accepting data descriptive of at least one of an appointment and an event for inclusion in a diary database" are disclosed in Freeman. Freeman discloses the user's stream departing to other's streams to learn of availability for a meeting. However, Freeman contains no disclosure of "adding data resulting from said step of extracting to data resulting from said step of accepting to said diary database" in the same embodiment as that for "extracting current events or historical data from an external data resource" or "accepting data descriptive of at least one of an appointment and an event for inclusion in a diary database". Thus, Freeman contains absolutely no disclosure or suggestion of "extracting current events or historical data from an external data resource," "accepting data descriptive of at least one of an appointment and an event for inclusion in a diary database," and "adding data resulting from said step of extracting to data resulting from said step of accepting to said diary database."

With regard to claims 17 and 18, the Examiner again engages in a rather fanciful interpretation of what is disclosed in Herz. Firstly, the Examiner argues that Herz detects a mood of a user. Applicants respectfully disagree. Herz merely describes the evaluation of the likelihood of interest in a particular target object for a user (see column 18 line 49 to column 20, line 55). The evaluation is made by building a user profile based on the user's interests. During the description of the evaluation, Freeman merely appreciates that a user's interests can vary according to the user's mood and therefore certain factors should be weighed more heavily than others in the evaluation. Thus, Herz contains absolutely no disclosure or suggestion of "sensing and classifying states, events, or moods of a user or said user's environment" as is recited in claims 17 and 18.

Secondly, assuming arguendo that the features of claims 17 and 18 are shown in the combination of Freeman and Herz, the Examiner's logic in providing a suggestion or motivation for combining the references is flawed and improper. The Examiner argues that:

(1) Since Herz teaches a system for a customized electronic identifier which teaches that the event includes a change in mood of the user, it would have been obvious to modify Freeman to include where the event includes a change of mood of the user; and

(2) It would have been obvious to modify Freeman by the teaching of Herz because having the event include a change of mood of the user would enable the system to take into consideration the user's state of mind and be able to target events, articles, and items to present to the user according to the user's present mood.

With regard to (1) Freeman neither discloses nor suggests the use of detection of a mood as an event and Herz is not directed to a diary/calendar but to generation of news articles and the like from a user profile.

With regard to (2), since neither Freeman nor Herz expressly discusses these objectives or presents target events to the user based upon the detection of an event, the Examiner could have only gleaned them from the present invention, which is improper as based on hindsight.

With regard to the rejection of claims 1-4, 6, 7, 9-11, and 13-16 under 35 U.S.C. § 102(e), methods having at least the features discussed above and as recited in independent claims 1, 6, 10, and 14, are nowhere disclosed in Freeman. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of

each and every element of the claimed invention, arranged as in the claim,”¹ independent claims 1, 6, 10, and 14 are not anticipated by Freeman. Accordingly, independent claims 1, 6, 10, and 14 patentably distinguish over Freeman and are allowable. Claims 2-4, 7, 9, 11, 13, 15, and 16 being dependent upon claims 1, 6, 10, and 14, are thus allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1-4, 6, 7, 9-11, and 13-16 under 35 U.S.C. § 102(e).

With regard to the rejection of claims 5, 8, and 12, under 35 U.S.C. § 103(a), since independent claims 1, 6, and 10 patentably distinguish over the prior art and are allowable, claims 5, 8, and 12 are at least allowable therewith because they depend from an allowable base claim.

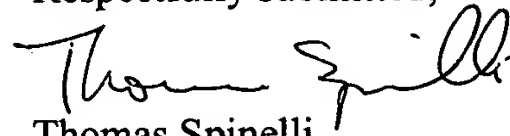
With regard to the rejection of claims 17 and 18, under 35 U.S.C. § 103(a), independent claims 17 and 18 are not rendered obvious by the cited references because neither the Freeman patent nor the Herz patent, whether taken alone or in combination, teach or suggest a method for generating a diary record or a data medium having instructions thereon for implementing such a method having the features discussed above. Accordingly, claims 17 and 18 patentably distinguish over the prior art and are allowable. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 17 and 18 under 35 U.S.C. § 103(a).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone

¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

conference with Applicant's attorneys would be advantageous to the disposition of this case,
the Examiner is requested to telephone the undersigned.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas Spinelli".

Thomas Spinelli

Registration No. 39,533

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343
TS/cm